

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**COUNTY OF BUTLER, *et al.*,
Plaintiffs**

v.

**THOMAS W. WOLF, in his official
capacity as Governor of the
Commonwealth of Pennsylvania, and
RACHEL LEVINE, MD, in her official
capacity as Secretary of the
Pennsylvania Department of Health,
Defendants**

No. 2:20-CV-677-WSS

Complaint Filed 5/7/20

DECLARATION OF SAM ROBINSON

I, Sam Robinson, hereby state, subject to the penalties of perjury, that the following is true and correct based upon my personal knowledge:

1. I joined the Wolf Administration in 2015 following the election of Tom Wolf as the 47th Governor of the Commonwealth of Pennsylvania. On July 16, 2018, I was appointed Deputy Chief of Staff and have served continuously in this position since that time.

2. As Deputy Chief of Staff, I serve as liaison between the Governor's Office and the Departments of Environmental Protection, Conservation and Natural Resources, State, Revenue, and Banking and Securities.

3. I also serve as part of Pennsylvania's reopening team as it relates to the COVID-19 pandemic.

4. Prior to joining the Wolf Administration, I served on the Governor's campaign for office in 2014 and previously as an attorney in the City Solicitor's Office in Philadelphia, working on regulatory matters.

5. As a member of the Commonwealth's reopening team, I am familiar with the March 19, 2020, Business Closure Orders issued by Governor Wolf and Secretary Levine, the development of the life-sustaining and non-life-sustaining categories for businesses and the rationale for the classification of certain businesses in these categories.

6. In determining which businesses would remain open, the Governor's policy team focused on which businesses provided life-sustaining services or products.

7. The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. <https://www.census.gov/eos/www/naics/faqs/faqs.html>, Q1.

8. The NAICS uses a coding system to differentiate particular industries in the classification system, dividing the full economy into 20 broad Sectors, and 316 Industry Groups.

9. The U.S. Census Bureau assigns one NAICS code to each

establishment based on its primary activity (generally the activity that generates the most revenue for the establishment) to collect, tabulate, analyze, and disseminate statistical data describing the economy of the United States. Generally, the U.S. Census Bureau's NAICS classification codes are derived from information that the business establishment provided on surveys, census forms, or administrative records. <https://www.census.gov/eos/www/naics/faqs/faqs.html>, Q10.

10. In categorizing businesses as life-sustaining or non-life sustaining, the Governor's policy team reviewed the categories set forth by the NAICS and decided whether each Industry Group was life-sustaining or non-life-sustaining.

11. In short, whether a business was deemed to be life-sustaining or non-life-sustaining was determined by the classification given to the business's NAICS code.

12. The administration posted FAQs to assist business owners. These FAQs included advice on how a business owner could determine its NAICS classification.

13. Following the classification of businesses as life-sustaining or non-life-sustaining by the Governor's policy team, the Cybersecurity and Infrastructure Security Agency (CISA) released guidance on critical infrastructure workers during COVID-19.

14. The Governor's policy team undertook a review of the CISA guidance

and revised its list of life-sustaining businesses to more closely align with the categories determined to be critical infrastructure.

15. A waiver process, administered by the Pennsylvania Department of Community and Economic Development, was created to allow businesses to challenge their classification as non-life-sustaining.

16. The distinction between life-sustaining and non-life-sustaining businesses was only utilized in the “red” phase of the reopening plan.

17. In the “yellow” and “green” phases, reopening decisions were based upon whether a business created a high-risk for transmission of COVID-19.

Date: 7/9/20



Sam Robinson
Deputy Chief of Staff
Office of the Governor